

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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|--------------------|---|-------------------|
| RAFAEL JONES, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 4:09CV475 RWS |
| |) | |
| STATE OF MISSOURI, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's response to this Court's Order to show cause why the petition should not be dismissed for failure to exhaust state remedies. Petitioner has failed to adequately show cause why the petition should not be dismissed. As a result, the petition will be dismissed without further proceedings.

Petitioner, an inmate at the St. Louis City Justice Center, seeks release from confinement pursuant to 28 U.S.C. § 2254. Petitioner states that he is challenging the August 1, 2008, conviction and sentence imposed by the St. Louis County Circuit Court, following his plea of guilty to "2 counts of nonsupport." Petitioner did not appeal from the judgment of conviction. In the instant action, petitioner asserts that the criminal charges were based on fraudulent indictments.

In his petition, petitioner did not indicate that he attempted to file any type of state court habeas petition or motion for post-conviction relief. On April 3, 2009, the Court ordered petitioner to show cause why the case should not be dismissed for failure to

exhaust required state remedies. See Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973) (in the absence of exceptional circumstances, a state prisoner must exhaust currently available and adequate state remedies before invoking federal habeas corpus jurisdiction).

In his response, petitioner does not address the issue of exhaustion. Nor does petitioner allege that he has presented the issues raised in the instant petition to any state court in a petition for writ of habeas corpus or motion for post-conviction relief. As a result, the petition must be dismissed for failure to exhaust state remedies. Id.; 28 U.S.C. § 2254(b); see also Rule 4 of the Rules Governing § 2254 Petitions (allowing for summary dismissal where it is apparent from face of petition that petitioner is not entitled to relief).

Accordingly,

IT IS HEREBY ORDERED that petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that all pending motions are **DENIED** as moot.

An Order of Dismissal will be filed with this Memorandum and Order.

Dated this 13th day of April, 2009.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE